

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
October 15, 2015**

Approved 12/10/2015

Minutes

The Town of Kinderhook Planning Board met on Thursday, October 15, 2015, at 7:00pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The Chairman called the meeting to order and the secretary called the roll.

A. Roll Call

Present:

Peter Haemmerlein, Chairman
Andy Howard, Town Attorney
Patrick Prendergast, Engineer
Guy Rivenburgh
Jake Samascott
William Butcher
Dale Berlin
Jason Graham
Chris Simonsen
Dan Weiller, Alternate
Jonathan Cavagnaro, Alternate
Nataly Dee, Secretary

Excused:

None

Absent:

None

Also in Attendance:

Mr. Peter VanAlstyne
Mr. Marcel St. Onge
Mr. Vail, Sr.
Mr. Vail, Jr.
Janet Shumsky, Niverville Fire Dept.
Numerous public

B. Correspondence

1. Review of Minutes:

August 13, 2015 - Workshop;
September 10, 2015 – Workshop;
September 17, 2015 – Meeting;

Mr. Simonsen made a motion to approve the above listed minutes. Mr. Butcher seconded the motion. All in favor. Motion carried; minutes approved.

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C. Public Hearings

1. 7:05 pm - Marcel St Onge /Old Kinderhook Self -Storage, 3067 US Rte 9, Valatie – Site Plan Review;

The secretary read the notice as it appeared in the paper (on file).

Mr. Samascott made a motion to open the Public Hearing. Mr. Berlin seconded the motion. All in favor. Motion carried; hearing opened.

Mr. VanAlstyne, representing the applicant Marcel St Onge, addressed the board and distributed plans for the board's review. He reviewed the scope of the proposal for the public. He addressed the location of the lot noting that it is currently an undeveloped lot. This is an expansion of the existing storage location. The site is accessed by an easement over the existing driveway. He reviewed the plans page by page. Page two shows the site plan, location of the storage units and green space is shown. Shaded area is packed gravel (61% coverage), the remainder is green space. Mr. VanAlstyne indicated the proposed lighting locations and the cut sheet for the lighting. Setbacks and dimensions of the units are shown. Page 3 addressed the level of disturbance and the drainage plan. He noted the SWPPP was submitted to the Town Engineer for his review. Further, he explained about the ditch that surrounds the lot. A dry well was added to the sedimentation infiltration basin. Three dry wells were also added to the center of the site. Modifications were made to the plans per the Engineer's comments and recommendations. Page 4 is a detail sheet of the building elevations.

Public was invited to speak.

Ms. Judy Roth, Maple Lane. She stated that she lives behind the existing location and the existing security lights shine into their windows. She is concerned about the addition of more lights and the effect on her property value.

Mr. Alan Grout, Golden Harvest. He stated that he feels the additional traffic is a problem. He noted his previous objection to the Dollar General regarding increased traffic. He would be remiss if he didn't voice concern about additional traffic and congestion on Route 9. The possibility of a traffic accident and the ramification to their business is of concern to him. He is against the proposal because of the negative impact to his business.

Ms. Lynn Seftner, Maple Lane South. She is concerned about the drainage.

Mr. Mike Roth, Maple Lane. He is concerned about the loss of the "county life" in the town.

The secretary noted that she received a phone call from Mr. Moison of Maple Lane South who is also concerned about additional traffic.

Mr. Simonsen made a motion to close the public hearing. Mr. Berlin seconded the motion. All in favor. Motion carried; hearing closed.

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Questions and comments from the Board were entertained. Mr. Simonsen addressed the lighting, noting that if light is spilling off the property it is a code enforcement issue. This application meets the code in respect to the lighting.

Mr. Prendergast wanted to clarify the depth of the drywells, noting the diameter was indicated at 8'. Mr. VanAlstyne stated that they are 6' in diameter. Further, he noted that the area is zoned commercial, B1A. Fencing was also proposed along the rear and south side of the property. Fencing will be 6' high, chain link with black slats. Additionally, pine trees will be planted along the eastern property line abutting the Dollar General for additional screening. Mr. VanAlstyne also noted that Mr. Visconti of DOT reviewed the site and commented that it is a low volume at peek type of business and as such did not require any additional work to the existing entrance. A letter of approval was submitted (on file).

The State Environmental Quality Review (SEQR) was reviewed by the Attorney:
Part II: Impact Assessment of the EAF (Short Environmental Assessment Form).

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact.* Proposed use is acceptable under the zone.
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no or small impact.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact. Note was made of the letter from DOT approving the entrance and stating no additional work needs to happen.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact. The only energy usage would be from the dark-sky compliant lighting that was discussed.*
7. Will the proposed action impact existing:
 - a. public / private water supplies? *Proposed answer is no or small impact.*
 - b. public / private wastewater treatment? *Proposed answer is no or small impact.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no or small impact.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact. As the Town Engineer has indicated, a full analysis has been done of the grading and drainage being provided at the site.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact.*

If the board agrees with the answers above, they could entertain a motion to issue a Negative Declaration under SEQR.

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Mr. Berlin made a motion to issue a Negative Declaration. Mr. Rivenburgh seconded the motion. All in favor. Motion carried; declaration issued.

A response from County Planning has not been received to date.

The easement language has been reviewed by the Attorney and is acceptable.

The project will be tabled until next month pending the County's recommendations.

2. 7:15 pm - Richard Bianchi, 262 & 240 Hennett Road, Valatie – Minor Subdivision/Lot Line Adjustment;

Mr. Samascott made a motion to open the Public Hearing. Mr. Graham seconded the motion. All in favor. Motion carried; hearing opened.

Mr. VanAlstyne, representing the applicant, addressed the board and distributed plans for review. He described the location and scope of the proposal. Mr. Bianchi built a tree house on Mr. Herzig's land and this lot line adjustment would transfer that land to Mr. Bianchi. He noted that 7,800sqft of land will be transferred between the parcels and does not affect the lot size in respect to the zoning regulation.

Mr. Haemmerlein invited the public to speak. There was no one in attendance that cared to comment.

The secretary noted an email received from Mr. Robert Piwonka stating he had no objection to the proposal.

Mr. Samascott made a motion to close the Public Hearing. Mr. Simonsen seconded the motion. All in favor. Motion carried; hearing closed.

Questions and comments from the board were entertained. There were none.

The State Environmental Quality Review (SEQR) was reviewed by the Attorney:
Part II: Impact Assessment of the EAF (Short Environmental Assessment Form).

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no or small impact.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact.*

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6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact.*
7. Will the proposed action impact existing:
 - a. public / private water supplies? *Proposed answer is no or small impact.*
 - b. public / private wastewater treatment? *Proposed answer is no or small impact.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no or small impact.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact.*

Mr. Berlin made a motion to issue a Negative Declaration under SEQR. Mr. Graham seconded the motion. All in favor. Motion carried; declaration issued.

Mr. Berlin made a motion to approve the application. Mr. Graham seconded the motion. All in favor. Motion carried; application approved.

Mr. VanAlstyne submitted a \$200 application fee on behalf of the applicant.

3. 7:20 pm - CaroVail, 831 CR 28, Niverville – Site Plan Review;

Mr. Samascott made a motion to re-open the Public Hearing adjourned at the September meeting. Mr. Rivenburgh seconded the motion. All in favor. Motion carried; hearing recommenced.

Mr. Haemmerlein noted that this has nothing to do with CaroVail's present operation; this is strictly a review of a proposed site plan at a new location.

Mr. Schmitt of Morris and Associates, representing the applicant, addressed the board. He addressed some of the concerns that were raised at the September Public Hearing. A number of these concerns were also addressed at the workshop meeting. Mr. Schmitt noted that CaroVail is proposing to replace the existing building with a building that has a smaller footprint. They propose to use the building for storage, mixing and bulk loading consistent with their current operation. He addressed the concern about the dust created and explained that in the rear of the building the loading shoot will be in the bed of the truck. Similarly, the loading of materials into the building from rail cars will be covered and underground. The only time the material will be exposed is when it comes off the train. To reduce this exposure a canvas skirt around the location is proposed. The trucks will be loading in the rear of the building so there should be no light from trucks on the road. Further, Mr. Schmitt commented about the lighting plan noting that locations are shown on the plans. He also commented about the hours of operation noting that there is no proposed change to the hours of operation. During the spring and summer, the company needs to cater to the needs of their customers which requires early loading hours. However, trucks will be asked to stay off site until loading time to reduce amount of truck traffic and noise. He briefly noted the products on site noting that there is no ammonium nitrate on site. He then

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addressed the concern of idling trains noting that the trains are under the control of CSX not CaroVail and as such, they have no control over them. There was a concern about spillage of product. Given the modern technology that they are proposing and that everything will be enclosed, spillage of product is unlikely. With regard to the concern about the traffic on the road, Mr. Schmitt noted that it is a county road and the speed limit is posted. He stated that the proposed traffic pattern in and out of the facility will be efficient. The site is still under the review of the County Highway Department. DOT is reviewing the entrances, but no modifications have been suggested. Additionally, Mr. Schmitt noted that there is no further development being proposed for the future at the site. As to the concern about vandalism and theft, Mr. Schmitt noted the location of the lighting proposed and that security cameras have been installed on the site.

Mr. Kent Keller, minimize the dust out front would make it a nicer place to live.

Ms. Patsy Leader, Niverville, Town Board member. She asked how long has CaroVail has been in operation at that location. Mr. Vail replied since 1979, 36 years. She spoke about the history. She addressed the dust but thinks they are trying to improve the situation. She stated that she hates to see a vacant building in the town. She understands the hours are early but that is the nature of farming. She has received numerous calls about the trains idling on the tracks. Both she and Mr. Grattan have approached CSX about this issue. She hopes that as long as this proposal is making it better for Niverville, that should be considered. This is a farming community and this is what it takes.

Mr. Alan Grout, noted that in the past there were many options for obtaining fertilizer. This is no longer the case. Farmers rely heavily on the service provided by CaroVail and it is important.

Ms. Marilyn Huffman. She stated that she hears what she thinks is a conveyor loading material in the summer time. She asked if the current proposal would reduce the noise.

Mr. Carl Whitbeck, attorney for CaroVail. He noted that they do load up to 9pm in the summer, but no later than that, and more frequently in the early morning. He stated that this would be improved by the current proposal.

Ms. Regina Rose, Niverville. She read a prepared comment (submitted for the file). She noted that she appreciates that previous comments and concerns from the public were communicated to and addressed by CaroVail. She also appreciated that Mr. Haemmerlein and Mr. Prendergast visited the site. She noted that noise pollution, lighting concerns and traffic conditions are on everyone's mind, but of upmost importance to her is that this is an industrial operation, chemical in nature, which is located in a densely populated area. She questioned the appropriateness of this location for this type of operation and suggested they relocate to a more suitable location. She inquired about the list of chemicals on site. She posed the potential for fire. She stated that accidents can and do happen. She is opposed to any expansion.

Mr. Warren Kohl. He inquired about who is going to enforce the proposed changes. Mr. Schmitt noted that any infractions would be the responsibility of the Code Enforcer. He also addressed the quality of the water quality.

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Mr. Larry Gaylord. He is concerned about the traffic. He proposed making Church Street a one-way street to alleviate some of the traffic patterns.

Ms. Patsy Leader. She noted that those matters could be addressed to the Town Board.

Mr. Patrick Ball. He inquired about the lighting proposed. He cautioned the board to carefully review the direction of the lighting. He proposed a noise barrier at the rear, such as a fence, noting that it might alleviate dust and noise. He asked if the PA systems is going to be increased. Mr. Vail noted that there are no plans to increase the PA system and that they are moving more and more toward texting and iPhones for communication. He inquired whether an asbestos survey of the building being demolished has been conducted. Mr. Howard noted that that would be coordinated by the Building Department.

Mrs. Ball. She commented about the noise of the current PA system. She inquired about the specifics of the loading chute.

Mr. Robert Welsh. He addressed the elevations and drainage. He inquired about the runoff. He is concerned about the environmental impact of runoff into wells and the lake. He asked if runoff could be channeled into a holding tank.

Mr. Schmitt addressed the drainage. The current proposal would reduce dust and spillage. He also noted CaroVail's involvement in a best practices protocol.

Mr. Whitbeck addressed the protocol and noted that spillage is not really an issue.

Patty Comb. She inquired about and is concerned about the chemicals in the products. She spoke about the effects of nitrogen mixing with water. The environmental and health impacts are of concern to her. She also questioned work that had been recently done on Lake Street.

Mr. Schmitt noted that DEC has reviewed this site and the ingredients and it is approved for the use. He noted that all the chemicals are stored separately and that fire protocols are in place. The emergency plan has been filed with the county emergency services.

Mr. Vail, Jr. noted that none of the chemicals being use are flammable.

Ms. Leader addressed the work being done raised by Ms. Comb. She stated that the county and town have received CHPS money, and there is only a small window of opportunity to get the road work completed.

Jeff Ouellette. He spoke about the history of the site. He stated that while we have no control over the permitted use, he hopes that Mr. Vail is listening to the concerns addressed tonight and will continue to be a good neighbor and run the best operation possible.

Stan Dzek. He addressed the drainage issue; he is concerned with the explanation of the drainage. He inquired about the provision to address potential spillage. He inquired how similar is the proposed loading shoot to the current operation.

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Mr. Schmitt noted that there is a telescoping feature on the proposed chute.

Mr. Dzek asked what guarantee is there that the telescoping feature is actually used. He cautioned the board to give close consideration to the drainage plan.

Mr. Whitbeck, Site plan approval conditions.

Mr. Haemmerlein stated that he is planning a field trip to see an operation similar to the one being proposed in action. He felt it would be appropriate to adjourn the public hearing for another month.

Mr. Berlin offered that as the concerns raised this month were not different from those raised at last month's meeting and as such did not think it was necessary to keep the public hearing open.

Mr. Howard addressed the issues for the board to consider. The board is still waiting for the county's response. If there are significant alterations made to the plans, the public hearing could be re-opened at a later date. He noted that it is within the board's discretion to close the public hearing while continuing to review the proposal.

Mr. Simonsen made a motion to adjourn the Public Hearing until next month. There was no second.

Based on his previous comments, Mr. Berlin made a motion to close the Public Hearing. Mr. Rivenburgh seconded the motion. In favor - 5, Opposed – 2. Motion carried; hearing closed.

Questions and comments from the board were entertained.

Mr. Simonsen commended CaroVail for listening to and addressing the concerns raised by neighbors and town residents. He is of the opinion that they have addressed many of the concerns. Additionally, he understands the value of their operation, noting if CaroVail were not here, where would the local farmers go. Further, he noted that he is familiar with the compounds being used. He appreciates the efforts made by CaroVail to engage in best-case practices. He visited the site, and is concerned about drainage as the site, that pitches toward the lake. The exit pipe of the culvert lets out 25 feet from the lake. Moreover, he is aware that things can go wrong and accidents can happen; the current drainage proposal does not take into account the possibility of an accident. He has concerns about drainage and feels it has the potentially problematic.

Mr. Weiller echoed and concurred with the concerns raised by Mr. Simonsen. He is of the opinion that it is incumbent upon the board to address and take every measure possible to protect local water, lakes and creeks.

Mr. Haemmerlein stated that the comments about the drainage are very relevant and important; however, the problem is there a workable system to make it better. The current system allows for escape, the proposal is offering a potential improvement. The proposal seeks to improve on the situation. Work needs to continue to tighten up containment before dust and material can escape. He proposed an

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enclosure to be used during the loading of the trucks, which would protect from rainwater and further reduce the exposure through runoff.

Mr. Prendergast commented about that idea, noting that even a simple pole structure to protect the ground is feasible. Further, he noted that dry products can be swept up, and if done properly there will be nothing left to wash away. He is not as concerned about drainage so much as the housekeeping and sweeping up and keeping the site clean. The amount of impervious area is not going to change. A shed over the truck loading area could help.

Mr. Howard inquired about a handling permit issued by the DEC. Mr. Schmitt replied that it is a Bulk Storage permit.

Mr. Vail, Sr. stated that the ditch currently there is full of grass. Further, he spoke about the best practices program that they are involved in. It is a new, nationwide program called Responsible Ag. Mr. Vail, Jr. stated that the program is in its infancy, but is being developed by developed by Fertilizer Institute and the Ag Retailers Association. It is a volunteer program for companies such as their that have credentialed auditors review their best management practices. In order for them to be awarded responsible ag membership, they have to pass all the criteria. They have had an initial audit of all their plants and are taking corrective measures to be credentialized.

Mr. Howard addressed the entrances. Mr. Schmitt responded that County Highway is still reviewing and the DOT/DPW permit is still pending. Further, Mr. Howard asked about any plan to increase the number of trains that service the site. Mr. Vail stated that the volume will remain the same, however, they hope in the future to increase; but at this point, it is about efficiency. Mr. Howard asked if that applies to the existing truck traffic; will a similar number of trucks be services. Mr. Berlin asked if the trucks will be filled faster, or will that rate remain the same. Mr. Vail commented that the filling will be faster, high volume with less pressure and will not have the same velocity as is current, but will create less dust.

Mr. Haemmerlein noted that this is not a new use, this operation currently exists will all the same materials being used. In reviewing this new building, the board's ability to influence and control this is to try to make the operation as safe as possible and reduce the hazards. That is the area that the board has the chance to weigh in on at this time. If this proposal is defeated and not approved, the operation continues as it has for the past 36 years.

Mr. Haemmerlein thanked the public for their attendance and comments.

D. Old Business

1. ELLE-KAZ, Orinsekwa Road – Major Subdivision;

The remaining monies held in escrow have been returned to the applicant.

2. 7th Day Adventists – Route 9, Valatie – Site Plan Amendment;

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No one was in attendance to represent this application. The lighting issue is still pending and there is now an issue with the signage.

3. Kyle Mitchison, County Route 32 – Minor Subdivision;

No one was in attendance to represent this application.

4. Novak Farms – Change to Driveway;

Mr. Howard recused himself from the proceedings.

Mr. Haemmerlein described the newly proposed design. The applicant met with Highway Superintendent, Mr. Ruchel. They propose to move the driveway entrance 100' toward Route 203, which is still approximately 200-300' away from the intersection. Mr. Prendergast described the site and commented that the new design is an improvement over the original proposal. The board reviewed the revised plans. Mr. Haemmerlein read a letter dated September 24 describing the appeal (on file).

Mr. Graham made a motion to accept the amended driveway proposal. Mr. Simonsen seconded the motion. All in favor. Motion carried.

E. New Business

None

F. ZBA Opinions

None

G. Liaisons

1. Village Planning Boards – Nothing new to report.

2. Town Board - Nothing new to report.

H. Other

1. Public Comment – None.

Mr. Simonsen made a motion to adjourn. Mr. Butcher seconded the motion. All in favor. Motion carried; meeting adjourned at 9:02pm.

Respectfully Submitted,

Nataly Dee, Secretary